

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

MAR 24 2009

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of

Michael M. Dubay, R.Ph.

Pharmacist Registration No. 16047

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Docket No. PH-08-090

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Michael M. Dubay, R.Ph. ("Registrant"), a pharmacist registered by the Board, License Number 16047, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of Registrant which is maintained by the Board:

1. The parties enter into this Consent Agreement ("Agreement") in order to resolve disputed matters arising out of a complaint pending against Registrant before the Board as Docket No. PH-08-090 (the "Complaint").
2. The Registrant acknowledges that he knowingly signed a form for the renewal of his pharmacist license in which he attested "under the penalties of perjury" that he had fulfilled requisite continuing education requirements for the period 2006 and 2007, yet when audited by the Board, the Registrant failed to provide documentation of completing the required five (5) live contact hours for 2006 and 2007, in violation of 247 CMR 4.03(3) and G.L. c. 112, s. 61.
3. The Registrant acknowledges that at the time of the Complaint, he was a pharmacist at CVS/pharmacy #1859, located at 148 Route 137 in Harwich, Massachusetts (Pharmacy Registration No. 2945).
4. Accordingly, the Registrant freely agrees to the following:
 - a. The Registrant's conduct as described in Paragraphs 2 and 5 above constitutes professional misconduct warranting disciplinary action under G.L. c. 112, 42A and 61 and 247 CMR 9.01(1), 9.01(6) and 10.03 (1)(p);

- b. The Registrant is hereby **REPRIMANDED** by the Board for the conduct described in Paragraph 2 above.
 - c. The Registrant must take and pass the Multistate Pharmacy Jurisprudence Examination (MPJE) with a score of at least 75% within six (6) months of the effective date of this Agreement; and
 - d. The Registrant shall complete thirty (30) LIVE contact hours of Board-approved continuing education credits within six (6) months of the effective date of this Agreement.
- 5. Failure to provide documentation of completion of **thirty (30) LIVE contact hours** and successful completion of the **MPJE** within six (6) months of the effective date of this agreement shall be considered a violation of the terms of this Agreement subjecting the Registrant to possible further disciplinary action by the Board.
 - 6. This Agreement and its contents shall be incorporated into the records maintained by the Board, are matters of public record, and are subject to disclosure without limitation to the public and equivalent state licensing boards.
 - 7. The Board agrees that in return for the Registrant's execution of this Agreement, the Board will not advance the prosecution of the Registrant pursuant to the Complaint; any and all other rights of the Board to take action within the scope of its authority are expressly reserved.
 - 8. The Registrant understands and agrees that his failure to accept the terms of this Agreement shall nullify the representations contained in Paragraph 9, and permit the Board to initiate formal adjudicatory action under the State Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00 *et. seq.*
 - 9. The Registrant understands and agrees that his decision to enter into this Agreement and to accept the terms and conditions herein described is a final act and is not subject to reconsideration or judicial review.
 - 10. The Registrant states that he consulted legal counsel in connection with his decision to enter into this Agreement and if he has not, that he had an opportunity to do so.
 - 11. The Registrant certifies that he has read this document entitled "Consent Agreement". The Registrant understands that, by executing this Agreement, he is waiving his right to a formal hearing at which he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to court in the event of an adverse ruling, and all other rights set forth in G.L. c. 30A and 801 CMR 1.01 *et seq.* Registrant states that he further

understands that in executing this document entitled "Consent Agreement", he is knowingly and voluntarily waiving his right to a formal hearing and to all of the above listed rights.

Sham Dubay
Witness (sign)

Sharon Dubay
Witness (print name)

Michael M. Dubay
Michael M. Dubay, R.Ph.
Registrant

Date: 03/18/09

BOARD OF REGISTRATION
IN PHARMACY

By: Sophia Pasedis
Sophia Pasedis, Pharm.D., R.Ph.
President

Effective Date: 3/24/09

Decision No. 1881